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WYATT, GERBER & O'ROURKE, L.L.P.

ATTORNEYS AT LAW

99 PARK AVENUE

NEW YORK, NEW YORK 10016

TELEPHONE (212) 681-0800

FACSIMILE

(212) 681-0810

FAX COVER SHEET

To: BOX AF
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

Fax: 571-273-8300

From: Douglas C. Wyatt

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Matter identification: U.S. Patent Application No. 10/748,440

Message: PRE-APPEAL BRIEF REQUEST FOR REVIEW

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National Elevator Cab & Door Corporation
U.S. Application No. 10/748,440
Filing Date: December 30, 2003

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

TITLE:	ELEVATOR CAB DESIGN) Examiner: Eric E. Pico
)
INVENTORS:	Jeffrey Friedman)
	Harold Friedman)
	Angelo Palmicri) Group Art Unit: 3654
)
APPLICATION NO.:	10/748,440)
)
FILING DATE:	December 30, 2003)

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Commissioner for Patents
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PRE-APPEAL BRIEF REQUEST FOR REVIEW

On March 5, 2007, Applicant's filed a Notice of Appeal requesting Appeal from a Final Office Action dated November 3, 2006. Applicants respectfully request review of the Final Office Action prior to Applicant's submission of an Appeal Brief, which is due June 5, 2007. Applicants request review since one or more essential elements needed for a *prima facie* rejection are missing, specifically none of the references describe "stiffeners on the interior of said shell panels to provide suitable support" as required by independent claim 1. In addition, applicants request review since clear errors were made in the Examiner's rejections, namely the Examiner relied upon personal knowledge to provide the missing elements and/or modify the references to provide the missing elements without support of an affidavit as required under 37 C.F.R. 1.104(d)(2), which is

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especially improper in view of the Office Action being made final. *See* MPEP

2144.03(A). No after-final amendments have been made.

Applicants' invention provides a novel construction for an elevator cab which maximizes the interior space of the elevator cab. Specifically, shell panels are provided which form the walls of the cab, and two types of stiffeners are provided on the interior of the shell panels to provide structural support, namely corner stiffeners and stiffeners on the interior of the shell panels. In addition, decorative panels are provided in between the stiffeners. Prior to the invention, structural elements were either provided on the outside of shell panels, or concealed behind interior panels to hide the structural parts from view from the interior of an elevator cab.

1. None of the Cited References Disclose "stiffeners on the interior of the shell panels to provide suitable support" as Required by Claim 1.

Claim 1 has been finally rejected under 35 U.S.C. § 103 as being unpatentable over U.S. Patent No. 4,700,809 to Lazar in view of JP 06-144,748 to Akira and U.S. Patent No. 3,631,942 to Broun.

Lazar does not disclose "stiffeners on the interior of the shell panels to provide suitable support" as required by claim 1.

Applicants rebutted the Examiner's citation of Lazar, showing that in Lazar, the vertical corrugations, 69, 79 are on the outside of the shell panels 60, 70, not on the interior. See Applicants' Response dated September 13, 2006 at p. 7. This is further supported by the description in the Lazar reference that "Each of the side edges 66 and 68

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form one leg of a U-shaped channel 66a, 68a that projects at a right angle towards the car exterior from the respective side edge 66, 68 a distance t.” Lazar, Col. 2, lines 22-25 (emphasis added). See also Applicant’s Response dated January 12, 2007 at p. 6-7.

Akira does not disclose “stiffeners on the interior of the shell panels to provide suitable support” as required by claim 1.

Applicants rebutted the Examiner’s citation of Akira, showing that in Akira, the corner pillars 3 and joints 4 referred to by the Examiner are described as being provided at the corners of the cab, not stiffeners on the interior of the shell panels which are in addition to corner stiffeners as required by claim 1. See Applicant’s Response dated September 13, 2006 at p. 7-8. See also Applicant’s Response dated January 12, 2007 at p. 7-8.

Brounn does not disclose “stiffeners on the interior of the shell panels to provide suitable support” as required by claim 1.

Applicants rebutted the Examiner’s citation of Brounn, showing that the intermediate columns 38, 39, 60, 65 in Brounn are not “stiffeners on the interior of the shell panels” since Brounn does not provide shell panels. Brounn uses the columns to create a skeleton for an elevator cab, and thus the columns in Brounn are not “on the interior of the shell panels” as required by claim 1. See Applicants’ Response dated September 13, 2006 at p. 8-9. Specifically, Brounn describes “using frame wall structures to form a rigid skeleton chassis, [and]

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lightweight decorative panels to form the cab walls..." Col. 1, lines 49-50. See also Applicant's Response dated January 12, 2007 at p. 12-16.

2. Clear Error was Made in the Assertion that it would have been Obvious to Provide the Missing Elements and the Improper Reliance Upon Personal Knowledge

As shown above, neither Lazar nor any of the other references provide stiffeners on the interior of the shell panels, as required by claim 1, and therefore fail to make a *prima facie* case of obviousness. See Applicants' Response dated September 13, 2006 at p. 8-9. See also Applicant's Response dated January 12, 2007 at p. 10-12, 15-17.

In addition, there is nothing in the references to suggest, modify or motivate one of ordinary skill in the art to provide "stiffeners on the interior of the shell panels to provide suitable support" and the Examiner has pointed to no such disclosure. See Office Action dated November 3, 2006 at p. 10.

To the extent that Examiner relied upon personal knowledge to modify the references to provide "stiffeners on the interior of the shell panels to provide suitable support," applicants submit that such reliance is improper in view of applicants request for an affidavit, see 37 C.F.R. 1.104(d)(2); MPEP 2144.03, and in view of the Office Action being made final, see MPEP 2144.03(A). See Applicant's Response dated September 13, 2006 at p. 8-9.

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3. Neither Lazar, Akira or Brounn disclose or suggest providing "decorative panels mounted on said shell panels on the interior of said cab and mounted between said stiffeners" as Required by Claim 1.

Applicants rebutted the Examiner's citation of Brounn as purportedly disclosing "decorative panels mounted in said shell panels on the interior of said cab and mounted between said stiffeners." See Applicant's Response dated September 13, 2006 at p. 8-9. The wall panels in Brounn are mounted on top of the columns in Brounn, and are not "decorative panels mounted in said shell panels on the interior of said cab and mounted **between** said stiffeners" as required by claim 1. In addition, Brounn's skeleton construction lacks shell walls for mounting decorative panels on the shell panels and between the stiffeners. See, e.g., Fig. 1. See also Applicant's Response dated January 12, 2007 at 14-17.

4. Conclusion

Accordingly, applicants respectfully request consideration of this Pre-Appeal Brief Request for Review, and attorneys for applicants are available to discuss any of the forgoing at (212) 681-0800.

Dated:

March 20, 2007

Respectfully submitted,



Douglas C. Wyatt
Registration No. 43,293

Douglas W. Wyatt
Registration No. 21,041